

REMARKS

The Final Office Action of April 6, 2005, has been considered by the Applicants. Claim 10 has been amended. Claims 10-13, 15-20, and 22-27 remain pending. Reconsideration of the Application is requested.

Claims 10-13, 15-20, and 22-27 were rejected under 35 U.S.C. 112, ¶ 2, as indefinite. The Examiner stated that a single claim which claims both an apparatus and the method steps of using the apparatus is indefinite. Applicants traverse the rejection.

Claim 10 has been amended to remove the method steps cited by the Examiner. A limitation has also been added to claim 10 stating that the upper and lower members are located so as to directly contact the belt and that the upper member can move. This wording defines the structure of the claimed apparatus, not a method of using it.

Applicants request withdrawal of the rejection for indefiniteness.

Claims 10, 12, 13, 15-17, 22, 24, 26, and 27 were rejected under 35 U.S.C. 102(b) as anticipated by Hoffman (US 3,956,045). Applicants traverse the rejections.

Hoffman does not teach all claim limitations. With reference to Figure 3 and column 6; lines 1-30, Hoffman teaches a method of bonding layers of resinous film which consists of folding a layer of film (10 and 11) and bonding them together with two layers of polyester (14 and 15). The layers are then cut in the middle of the layer of polyester (see Figure 5, where the bags are cut between film 15). Hoffman's method requires that two layers of polyester (14 and 15) be placed between the heating members (18 and 19) and the layer of film (10/11). In contrast, claim 10 has been amended to require that the heating members be located so as to directly contact the belt, excluding the possibility of the two layers of polyester (14 and 15). In other words, there is a structural difference between the instant claims and Hoffman. Therefore, Hoffman does not anticipate the instant claims.

With regard to claims 15-17, 22, 26, and 27, Hoffman does **not** make the teachings cited by the Examiner. Hoffman does not disclose that the heating means is embedded within the guide members in column 2, lines 38-52; it only discusses the jaw members and never specifies that they are used as guide members. Indeed, guide members are specifically provided, such as the wheels (29) in Figure 3, the guides (124 and 125) in Figure 21, and the guide rollers (128 and 129) in Figure 22. Also note that the wheels (128 and 129) called "compression wheels" are described as "guide rollers"; Hoffman does not teach that they are used to apply a specific compression force to the layers. Hoffman also does not teach that the heatable flat surface comprises a Teflon layer, a fluorocarbon layer, or a polymer layer. The columns cited by the Examiner instead teach that *what is heated* by Hoffman's apparatus can comprise a Teflon layer, a fluorocarbon layer, or a polymer layer. Therefore, Hoffman does not anticipate these claims.

Applicants request withdrawal of the 102(b) rejections based on Hoffman.

Claims 11, 20, and 25 were rejected under 35 U.S.C. 103(a) as obvious over Hoffman. Applicants traverse the rejections.

Applicants note that these claims ultimately depend from claim 10, which was not, and has never been, rejected as obvious over Hoffman. Claims depending from a non-obvious claim are themselves non-obvious. See MPEP § 2143.03; *In re Fine*.

With regards to claim 20, Hoffman does not teach or suggest modifying the apparatus to heat the material to a predetermined temperature in order to soften and reshape the material. Hoffman teaches that the apparatus is intended to bond, i.e. melt, the film layers together. If the apparatus were modified so it did not reach a melting temperature, then the film layers would not be bonded together and it would be rendered unsatisfactory for its intended purpose. MPEP § 2143.01. Therefore, claim 20 is not *prima facie* obvious.

Applicants request withdrawal of the 103(a) rejections based on Hoffman.

Claims 18, 19, and 23 were rejected as obvious over Hoffman in view of Off (US 4,214,933). Applicants traverse the rejections.

Applicants note that these claims ultimately depend from claim 10, which was not, and has never been, rejected as obvious over Hoffman. Claims depending from a non-obvious claim are themselves non-obvious. See MPEP § 2143.03; *In re Fine*.

Applicants request withdrawal of the 103(a) rejections based on Hoffman and Off.

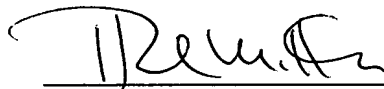
CONCLUSION

For the above reasons, all pending claims (claims 10-13, 15-20, 22-27) are in condition for allowance. Additional search and examination is not believed necessary. Withdrawal of the rejections and issuance of a Notice of Allowance is requested.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he is hereby authorized to call Richard M. Klein, at telephone number 216-861-5582, Cleveland, OH.

Respectfully submitted,

FAY, SHARPE, FAGAN, MINNICH
& McKEE LLP



Richard M. Klein (Reg. No. 33,000)
1100 Superior Avenue, 7th Floor
Cleveland, OH 44114
(216) 861-5582